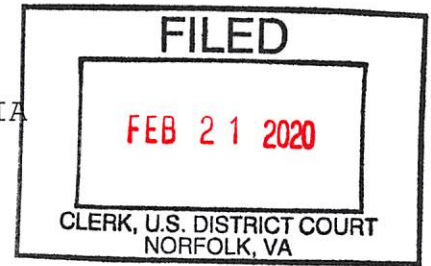


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



BRYANT KELLY PRIDE,

Petitioner,

v.

Case No.: 2:19cv222

J. RAY ORMOND,

Respondent.

FINAL ORDER

Before the Court is a Petition for a Writ of *Habeas Corpus* filed pursuant to 28 U.S.C. § 2241, ECF No. 1, and the Respondent's Motion to Dismiss. ECF No. 6. In his Petition, the *pro se* Petitioner challenges his sentences in both of his convictions pursuant to § 2241 because he states he satisfies the test set forth in *United States v. Wheeler*, 886 F.3d 414, 419 (4th Cir. 2018); Petitioner further argues that he is entitled to a sentence reduction pursuant to the Fourth Circuit's decision in *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011), and he is entitled to relief pursuant to the First Step Act.

The Petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and

Recommendation filed December 30, 2019, recommends Dismissal of the Petition with prejudice. ECF No. 11. On January 23, 2020, the Petitioner filed objections to the Report and Recommendation. The Respondent has not responded to the Petitioner's objections and the time to do so has expired.


The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed December 30, 2019. ECF No. 13. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 6, is **GRANTED**, and that the Petition, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondent.

Finding that the basis for dismissal of Petitioner's § 2241 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. See 28 U.S.C. § 2253; see Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483-85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. See Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). Petitioner is further advised that he may appeal from this Final Order by filing a written notice of appeal, within sixty (60) days of its entry, with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall forward a copy of this Final Order to Petitioner and to the United States Attorney at Norfolk.

It is so **ORDERED**.

/s/
Rebecca Beach Smith
Senior United States District Judge 

REBECCA BEACH SMITH
SENIOR UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
February 21, 2020